

which is silicon based. The applicants also discussed amending claims 42, 47 and 51 to include the feature of that there is less than 10% water present in the composition. The applicants discussed correcting inventorship and filing a terminal disclaimer. No agreement was reached. The interview summary accurately reflects the discussion between the applicants and the Examiner.

The Examiner has required the applicants to elect between Groups I and II. The applicants affirm their election of Group II, claims 29 through 51, without traverse. Applicants are in the process of submitting a Petition to Correct Inventorship. The inventorship has changed based on the cancelled claims.

Claims 29 through 36, 38, 39, 40 and 47 through 49 and 51 were rejected under 35 U.S.C. § 102(b) as being anticipated by Arranaga U.S. Patent No. 5,045,588 (hereinafter referred to as "Arranaga"). Claims 37, 40 and 50 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Arranaga in view of Martin U.S. Patent No. 5,466,458 (hereinafter referred to as "Martin"). Claims 41 through 44 and 51 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Dolan U.S. Patent No. 5,553,014 (hereinafter referred to as "Dolan"). Claim 45 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Dolan as applied to claims 41 through 44 and 51 above and further in view of Milberger U.S. Patent No. 2,828,261 (hereinafter referred to as "Milberger"). Claim 46 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Dolan as applied to claims 41 through 44 and 51 above and further in view of Martin. Claims 37, 40, 41, 43 through 46 and 50 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 through 6 of co-pending application Serial No. 09/765,765 (hereinafter referred to as "the '765 application"). Claims 40 through 46 were rejected under 35 U.S.C. § 112, second paragraph. To the extent the amendments do not overcome these rejections, the applicants

respectfully traverse these rejections.

Rejection Over Arranaga

Claims 29 through 36, 38, 39, 40, 47 through 49 and 51 were rejected under 35 U.S.C. § 102(b) as being anticipated by Arranaga. Claims 37, 40 and 50 were rejected under 35 U.S.C. § 103(a) as being unpatentable above in view of Martin. The only three independent claims rejected over Arranaga alone or in view of Martin are claims 29, 47 and 51.

Applicants' independent claims 29, 47 and 51 require that the homogenous liquid composition which contains an oil thickener which is silicon based. As the Examiner has correctly stated, Arranaga requires an organic derivative of clay, dimethylbenzyloctadecyl ammonium hectorite. See the Abstract, column 1, lines 46 through 47; column 2, lines 37 through 39 and the four examples. More specifically, at column 6, starting at line 17, Arranaga discloses,

The best suspending agent found was a combination of dimethylbenzyloctadecyl ammonium hectorite and chrysotile asbestos. This combination is synergistic in that the combination works together to produce a beneficial result which is greater than the total of the results obtained when each of these ingredients is used individually (without the other).

The Applicants' claimed invention of independent claims 29, 47 and 51 require that an oil thickener be present which is silicon based. There is no disclosure nor teaching to use a silicon based thickener in Arranaga. In fact, Arranaga teaches away from using a silicon thickener and requires the use of an organic derivative of clay and preferably synergistic combination of chrysotile asbestos and dimethylbenzyloctadecyl ammonium hectorite. Therefore, Arranaga teaches away from the Applicants' claimed invention. For the above reasons, these rejections should be withdrawn.

Rejection Over Dolan

Claims 41 through 44 and 51 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Dolan. Claim 45 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Dolan as applied to claims 41 through 44 and 51 above and further in view of Milberger. Claim 46 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Dolan as applied to claims 41 through 44 and 51 above and further in view of Martin. As the Examiner has correctly recognized, Dolan does not teach a composition that contains less than 10% water. In fact, in all of the examples of Dolan, the water is present in a very high percentage, being between 25.74% by weight and 51.76% by weight. See column 9, lines 36 through 40. The Examiner has rejected independent claims 42 and 51 over Dolan. The Applicants have amended these claims to include the proviso that there is less than 10% water present in the composition. Dolan teaches away from the Applicants' claimed invention and requires over double the amount of water as a minimum in these independent claims. For the above reasons, these rejections should be withdrawn.

Double Patenting Rejection

Claims 37, 40, 41, 43 through 46 and 50 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 through 6 of the co-pending '765 application. The Applicants are in the process of submitting a terminal disclaimer which would obviate this rejection. For the above reasons, this rejection should be withdrawn.

Section 112 Rejection

Claims 40 through 46 were rejected under 35 U.S.C. § 112, second paragraph. Applicants have amended these claims and believe that these claims, as amended, are in compliance with 35 U.S.C. § 112, second paragraph. For the above reasons, this rejection

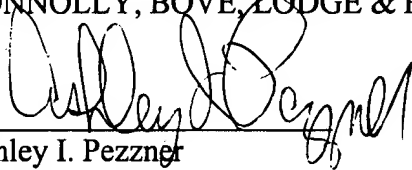
should be withdrawn.

No additional fee is due. If there are any additional fees due in connection with the filing of this response, including any fees required for an additional extension of time under 37 CFR 1.136, such an extension is requested and the Commissioner is authorized to charge or credit any overpayment to Deposit Account No. 03-2775.

A prompt favorable action is earnestly solicited.

Respectfully submitted,

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APPENDIX

29. A homogenous liquid composition consisting essentially of

- (a) at least one oil [and]
- (b) at least one deposition or drift reducing agent and
- (c) an oil thickener which is silicon based.

42. A homogenous liquid composition comprising

- (a) at least one oil and
 - (b) a natural gum
- with the proviso that there is less than 10% water present in the composition.

43. The composition as claimed in claim [40]42, wherein said natural gum is a non-derivatized guar gum, cationic guar gum, non-cationic guar gum or mixtures thereof.

47. A homogenous liquid composition comprising

- at least one oil, [and]
 - a polyacrylamide polymer and
 - an oil thickener which is silicon based,
- with the proviso that there is less than 10% water present in the composition.

51. A homogenous liquid composition comprising

- (a) at least one oil, [and]
 - (b) a polymeric deposition agent and
 - (c) an oil thickener which is silicon based,
- with the proviso that the polymeric deposition agent is not a polyacrylamide polymer and with the proviso that there is less than 10% water present in the composition.